GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

B.C. Welfare Department - Appeal Petition filed by Sri Yammani Chandra Sekhar, S/o Yammani Nasaraiah, R/o Prasanth Nagar, Warangal Town and Mandal, Warangal District, against cancellation of 'Setti Balija' (BC-B) caste certificate by the Collector and District Magistrate, NTR District Proceedings Rc.No.Magl-1/176/2022, dated:20.03.2023 under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

BACKWARD CLASSES WELFARE (F) DEPARTMENT

G.O.Ms.No.19 **Dated:07.03.2024.**

Read the following:

1. Proceedings Rc.No.Magl-1/176/2022, dated:20.03.2023 of the Collector and District Magistrate, NTR District.
2. Appeal petition filed by Sri Yammani Chandra Sekhar, S/o Yammani Nasaraiah, dated:04.04.2023.
3. Orders of the Hon'ble High Court in W.P.No.9873 of 2023, dated:12.04.2023.
4. Govt.Memo.No.2044144-1005/BCW/F/2023, dated:10.05.2023.
5. Orders of the Hon'ble High Court in W.P.No.12300 of 2023, dated:11.05.2023.
6. From the Collector and District Magistrate, NTR District, Letter Rc.No.Magl-1/176/2022, dated:18.05.2023.
7. Govt. Memo. No.2044144/BCW/F/2023, dated:25.01.2024.
8. Govt. Circular Memo. No.10956/CV.1/97-2, dated:16.02.1998.

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ORDER:

In the reference 1st read above, the Collector and District Magistrate, NTR District has cancelled "'Setti Balija (BC-B)" Caste Certificate issued in favour of Sri Yammani Chandra Sekhar, S/o Yammani Nasaraiah following a petition by Sri M. Joseph of Guntur, alleging fraudulent acquisition of the certificate, as Chandra Sekhar belongs to the OC Balija caste, while also securing a job as an Assistant Professor at NIT, Warangal.

2. In the reference 2nd read above, Sri Yammani Chandra Sekhar, S/o Yammani Nasaraiah has filed an appeal petition before the Government against the proceedings in the reference 1st read above. In the meanwhile, the appellant has filed W.P.No.9873/2023 praying Hon'ble High Court to suspend the operation of the order in the reference 1st read above. In the reference 3rd read above, the Hon'ble High Court while allowing the Writ Petition directed the respondent No.1 to consider and pass orders on the application of the petitioner filed along with appeal on 04.04.2023 before the Government for suspension of order dt.20.03.2023. Upon examining the appeal petition and keeping in view of the orders of the Hon'ble High Court in the reference

3rd cited, the Government have admitted the appeal petition, issued stay orders on the operation of the impugned proceedings in the reference 1st read above and called for the para-wise remarks and connected records from the Collector and District Magistrate, NTR District vide reference 4th read above.

3. Sri Yammani Chandra Sekhar, S/o Yammani Nasaraiah has again filed another W.P. No.12300 of 2023 praying Hon'ble High Court to dispose of the appeal in the light of the orders in W.P.No.9873/2023. In the reference 5th read above, the Hon'ble High Court of AP while disposing the W.P. No.12300 of 2023 on 11.05.2023 has ordered that the 1st respondent has granted a stay of operation of the order under appeal and accordingly the W.P. was closed.

4. In the reference 6th read above, the Collector and District Magistrate, NTR District has furnished the Para-wise remarks and the connected records on the Appeal Petition filed by Sri Yammani Chandra Sekhar, S/o Yammani Nasaraiah.

5. In the reference 7th read above, Notice was issued to the Appellant Sri Yammani Chandra Sekhar, S/o Yammani Nasaraiah, complainant Sri Marneni Joseph, Chebrolu, Guntur and concerned officials to attend for hearing on 06.02.2024 before the Appellate Authority/Government along with the records and documents in support of the claim and represent the cases in person or through authorized counsel, failing which it will be construed that, there is no claim whatsoever in the matter and it will be decided based on the material available with the Government. Accordingly, complainant Sri Marneni Joseph, Chebrolu, Guntur and the officials from the Office of the Collector and District Magistrate, NTR District have attended for the hearing. At the time of hearing Smt. M. V. S. Lakshmi, Office of the Collector and District Magistrate, NTR District has informed to the Appellate Authority that the hearing notices were sent through Registered Post/Acknowledgement due to the appellant Sri Yammani Chandra Sekhar, S/o Yammani Nasaraiah in two different addresses D.No.126-4-478, Annapurna Nagar, 2nd line Gorantla, Guntur and Prasanth Nagar, Warangal District i.e., was returned un-served and she has also stated that as per the phone communication from the Office of the NIT, Warangal, the appellant has resigned to the job and his whereabouts are not known.

6. Further, Sri Marneni Joseph, complainant has submitted certain documentary evidences during hearing. Among other documents, he has submitted a letter No.NITW/Grievances/CPGRAMS/2023, dated:11.09.2023 of National Institute of Technology, Warangal, wherein it was informed that "*the Board of Governors being the Competent Authority has approved to institute disciplinary action against Shri Y. Chandrasekhar, Assistant Professor, under provisions of CCS (CCA) Rules, 1965, further action is underway and also accepted resignation of Shri Y. Chandrasekhar in public interest and he left the services of the Institute with effect from 10.08.2023.*

7. Upon hearing and after careful examination of the appeal petition, records/the copies of evidences/academic record/grounds filed by the appellant/the para-wise remarks and also documents put forth by the Sri M. Joseph at the time of hearing, considering the DLSC report of Guntur and DLSC report of NTR District, the Appellate Authority observed that:

GROUNDS OF THE APPEAL:

a) The order dated 20.03.2023, in proceedings Rc.No.Magl-1/176/2022, by the 1st Respondent/Collector and District Magistrate, NTR District is arbitrary, based on irrelevant considerations, and violating the Andhra Pradesh (Schedule Castes, Schedule Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993.
b) There is no independent enquiry or opportunity given to the Appellant and the entire proceedings in exercise of the provision of Section 5 were terminated in great haste without proper appreciation the facts applicable. There was no opportunity for the Appellant place the relevant material on record or to plead his innocence. There was no independent exercise of the discretion or authority in the matter by the 1st respondent.
c) That the respondents intentionally ignored the required procedure, especially considering that their decisions could have significant civil and penal consequences for the appellant and not followed under Rule 5 (b) of Andhra Pradesh (Schedule Castes, Schedule Tribes and Backward Classes) Issue of Community, Nativity and Date of Birth Certificates Rules, 1997.
d) The Respondents failed to consider the facts and exercise their power with a human face, more particularly when they are considering the issue pertains to issue of backwardness of a particular family and their origin and background was not properly considered and on the contrary tried to conclude the issue with irrelevant material/considerations which do not have bearing either direct or indirect on the issue.
e) The 1st Respondent in exercise of its quasi-judicial functioning failed to consider the judgment and the ratio ordained by the Hon'ble High Court of Andhra Pradesh in the matter of case of V. Narayana Rao and Another v. State of A.P, and Another, as reported in AIR 1987 AP 53;
f) The order of the 1st respondent is bereft of merits and suffers from serious procedural and legal infirmity and in case if the same is allowed to stand, the appellant would suffer irreparable injury and serious prejudice and hence the appellate authority may be pleased to suspend the order dated: 20.03.2023 in R.C.No:Magl-1/176/2022 pending adjudication of the above appeal.

REMARKS OF THE RESPONDENT NO.1:

(i) The District Level Scrutiny Committee (DLSC) has given an opportunity to the appellant Sri Y. Chandra Sekhar, S/o. Nasaraiah duly issuing a notice in Form VI to furnish the documentary evidence in support of his community claim. Accordingly, the present appellant has attended before the District Level Scrutiny Committee on 30.07 2022. The DLSC conducted an inquiry duly following the procedure laid under Rule 5 (b) of Andhra Pradesh (Schedule Castes, Schedule Tribes and Backward Classes) Issue of Community, Nativity and Date of Birth Certificates Rules, 1997,

considering Burden of Proof, material evidence, and reports from the DEO, Guntur and the Collector & District Magistrate, Guntur District. Hence, the allegation of the petitioner that no independent enquiry or opportunity given to the appellant is not true.

(ii) The DLSC have examined the School records and observed that the caste was noted as Hindu Ediga Balija BC-B from Classes VI to X and from the report of the RIO, Intermediate education, Guntur it is observed that the individual caste was noted as "Setti Balija-BC-B" and also observed that the father of the appellant obtained Ediga Balija BC-B from the Tahsildar, Sattenapalli Taluk and his mother Y. Adi Lakshmi and sister Saraswathi obtained Periki Balija-BC-B from the Tahsildar, Guntur.

(iii) That the 4th respondent has followed the due procedure and examined the material evidence i.e., the report of the Collector, Prakasam District, dt.23.03.2021 addressed to the Collector, Guntur District stated that the people with surname "Yammani" who are residing at Hasanapuram, H/o. Dupada Village of Tripuranthakam Mandal are belong to Balija-OC and not comes under the category of "BC" in Tripuranthakam Mandal. Hence, the contention of the petitioner that the respondents failed to consider the facts and exercise their power with a human face is not true. The orders are issued based only on the material evidence placed before the District Level Scrutiny Committee and therefore, the orders passed by the 1st respondent in Proceedings Rc.No Magl-1/176/2022, 20.03.2023 is sustainable in law.

8. The Government, in light of evidences and witness testimonies presented during the appellate authority's hearing, along with available material records and the untraceable whereabouts of the appellant, has thoroughly examined that the BC Caste Certificates of Sri Yammani Nasaraiah, father of appellant and his family were cancelled based on the DLSC, Guntur report, material evidence from the District Collector, Prakasam duly following the procedures laid down in Act 16 of 1993 and G.O.Ms.No.58 SW (J) Dept., dated 12.5.1997. Further, it was established that Sri Yammani Nasaraiah had left Hasanapuram village 50 years ago, settling in Guntur. Sri Yammani Nasaraiah failed to produce recorded evidence supporting his claim. The Tahsildar, Tripuranthakam, confirmed that those with the surname "Yammani" in Hasanapuram H/o Dupadu village belonged to Balija-OC and were not categorized as BC.

9. Further, the Government have also examined the findings of the DLSC, NTR District that Sri Yammani Nasaraiah, father of appellant who is native of Dupadu village of Yerragondapalem Mandal of Prakasam District belongs to Balija Caste which comes under OC category and the caste of the family members are recorded differently as Perika Balija, Ediga Balija and Setti Balija in School/College Transfer certificates of the family members and finally concluded that Sri Y. Chandrasekhar belongs to "OC-Balija" duly following the procedure laid in the Act 16 of 1993.

10. Based on the aforementioned information, testimonies, and evidence on file, the appellant, Sri Yammani Chandra Sekhar, son of Yammani Nasaraiah, does not fall under the 'Setti Balija' (BC-B) community. The evidence shows that he belongs to Balija-OC community, as the caste of the father prevails

vide reference 8th read above. Therefore, the opinion rendered by the DLSC/Collector and District Magistrate, NTR District holds good.

11. Government after careful examination of the entire matter and in exercise of the powers conferred under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No.16 of 1993), opined that the appeal petition filed by Sri Yammani Chandra Sekhar, S/o Yammani Nasaraiah does not deserve any interference. Hence, Proceedings of the Collector and District Magistrate, NTR District issued in the reference 1st read above is hereby upheld duly dismissing the appeal petition filed by Sri Yammani Chandra Sekhar, S/o Yammani Nasaraiah and the certificates issued earlier and the stay orders issued in the reference 4th read above are deemed to be cancelled.

12. The Collector and District Magistrate, NTR District is directed to take necessary consequential action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

G.ANANTHA RAMU
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To

The Collector and District Magistrate, NTR District (relevant original records enclosed).

Sri Yammani Chandra Sekhar, S/o Yammani Nasaraiah, Prasanth Nagar, Warangal Town and Mandal, Warangal District (**through Collector and District Magistrate, NTR District.)**

Copy to:
The Collector and District Magistrate, Guntur District.
The Collector and District Magistrate, Prakasam District.
The Director, B.C.Welfare, A.P., Vijayawada.
The OSD to Hon' Minister (BCW).
PS to Spl. CS to Government, B.C. Welfare Department, A.P. Secretariat, Velagapudi.

//FORWARDED::BY ORDER//

SECTION OFFICER

07/03/17